

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

IN THE MATTER OF:

**SYLVESTER HARRIS and
MINNIE HARRIS
Debtors.**

**CASE NO. 96-43714
Chapter 13**

**SYLVESTER HARRIS and
MINNIE HARRIS, et al.,
Plaintiffs,**

V.

Adversary No. 02-01220

**FEDERAL DEPOSIT INSURANCE CORPORATION
as Receiver for WASHINGTON MUTUAL BANK
Defendant.**

MOTION FOR APPROVAL OF SETTLEMENT

COME NOW Sylvester Harris, Minnie Harris, Dora Lee Hanger, and Meredith Brown (hereinafter, "Plaintiffs"), by and through counsel, and file this Motion for Approval of Settlement (the "Motion") respectfully requesting this Court to enter an Order approving the proposed settlement of Adversary Proceeding No. 02-01220 (the "Adversary Proceeding") currently pending before this Court and discussed herein, the terms of which settlement are set forth in the Settlement Agreement (the "Agreement") attached hereto as Exhibit A. In support of the Motion, Plaintiffs would show unto the court the following:

1. On or about November 5, 2002, Sylvester Harris and Minnie Harris filed this putative class action against Washington Mutual Bank ("WMB"), and subsequently filed an Amended Class Action Complaint (the "Complaint") on January 7, 2003. On March 5, 2004, Dora Lee Hanger and Meredith Brown filed a Complaint in Intervention that was substantively

identical to the Complaint. Plaintiffs' central allegation is that, during Plaintiffs' bankruptcies, WMB improperly charged late fees that were not disclosed to or approved by the Court, and also improperly deemed mortgage payments late in situations where Plaintiffs made those payments to their Chapter 13 Trustees pursuant to their Plans. Plaintiffs allege that WMB's actions violated the Bankruptcy Code and constituted an abuse of the bankruptcy process.

2. On September 25, 2008, the Office of Thrift Supervision ("OTS") closed WMB and appointed the Federal Deposit Insurance Corporation as Receiver for WMB ("FDIC-Receiver"). On November 3, 2008, FDIC-Receiver was substituted for WMB as defendant in this action.

3. FDIC-Receiver has denied all liability for the claims asserted in the Adversary Proceeding and has raised multiple affirmative defenses thereto. Nevertheless, in order to avoid the cost and uncertainty of further litigation and trial, Plaintiffs and FDIC-Receiver have negotiated in good faith in an attempt to resolve the disputed claims and subject matter of the Adversary Proceeding amicably, and, as a result of those negotiations, now desire Court approval of the Agreement which constitutes, inter alia, a full and final compromise and settlement of all of the claims that Plaintiffs have against FDIC-Receiver that are or might have been the subject matter of the Adversary Proceeding.

4. Approval of the settlement described in the Agreement is in the best interests of Plaintiffs, the Bankruptcy Estates, and the creditors in the Bankruptcy Cases.

5. Plaintiffs and FDIC-Receiver reserve the right to set forth other grounds for the relief requested herein at any hearing that may occur on the Motion.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully pray that this Honorable Court will, after notice and, if required, a hearing hereon, enter an Order: (i) granting

the Motion as described herein, (ii) specifically approving the Agreement, and (iii) granting such other general and specific relief which may be reasonably necessary to effectuate and consummate the settlement referred to herein, including, but not limited to, the authority to execute any and all necessary documents, including releases. Plaintiffs further pray for general relief.

THIS the 6th day of October, 2009.

/s/ Steve Olen
Steve Olen
Cunningham Bounds, LLC
P.O. Box 1826
Mobile, AL 36633

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served, via either the Court's ECF system or U.S. Mail, postage prepaid, a true and correct copy of the foregoing to:

All parties on the Pacer Mailing Matrix attached hereto as Exhibit B.

THIS the 6th day of October 6, 2009.

/s/ Steve Olen
Steve Olen